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Attorneys for World Botanical Gardens, Inc.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH (SALT LAKE)

In Re:

WALTER L. WAGNER,

Debtors.

Bankruptcy No. 12-35494

Chapter 7

Judge Joel T. Marker

**EX PARTE MOTION FOR AN ORDER AUTHORIZING WORLD BOTANICAL
GARDENS, INC. TO CONDUCT AN EXAMINATION OF WALTER L. WAGNER
PURSUANT TO RULE 2004 OF THE BANKRUPTCY RULES
AND FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 2004 of the Bankruptcy Rules and Rule 2004-1 of the Local Rules of Practice of the United States Bankruptcy Court for the District of Utah, World Botanical Gardens, Inc., a creditor in the Walter L. Wagner bankruptcy estate, by and through counsel of record, Arnold Richer of Richer & Overholt, P.C., respectfully moves the Court for an Order requiring the Debtor **WALTER L. WAGNER** to appear for examination, and further states:

1. That the party to be examined will receive not less than fourteen (14) days written notice of the examination, and that the examination is expected to occur on March 5, 2013.
2. That pursuant to 11 U.S.C. §2004(e) World Botanical Gardens will tender compensation allowed by law for mileage traveled by the Debtor more than 100 miles from the

Debtor's residence.

2. That World Botanical Gardens, Inc. desires to examine the Debtor **WALTER L. WAGNER** regarding the dischargeability under 11 U.S.C. §523 of debt owed by the Debtor to World Botanical Gardens, Inc.

3. That World Botanical Gardens, Inc. seeks authorization to conduct the Rule 2004 Examination of **WALTER L. WAGNER**, the Debtor, in the investigation of the Debtors' financial affairs and conduct, at the law offices of Richer & Overholt, P.C., 901 West Baxter Drive, South Jordan, UT 84095, on **March 5, 2013** at the hour of **10:00 a.m.**, said examination to be taken under oath and recorded by a duly certified Court Reporting Service.

4. Further, that the examination regarding this matter requires the Debtor to produce all books, papers, and documentation that pertain to or in any other way relate to the debt owed to World Botanical Gardens, Inc. and seeks further Order of the Court requiring the Debtor to produce the documents described in Exhibit "A" on or before **February 25, 2013** to the law offices of Richer & Overholt, P.C. located at 901 West Baxter Drive, South Jordan, UT 84095.

WHEREFORE, World Botanical Gardens, Inc. respectfully requests that an order be entered authorizing World Botanical Gardens, Inc. to conduct an examination of **WALTER L. WAGNER** and requiring him to produce the documents described in Exhibit "A" in accordance with Rule 2004, Federal Rules of Bankruptcy Procedure, at the dates and times specifically set forth in this Motion.

DATED this 8 day of February, 2013.

RICHER & OVERHOLT, P.C.

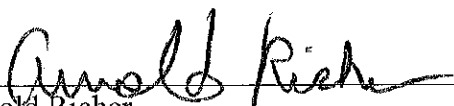

Arnold Richer
Attorney for World Botanical Gardens, Inc.

EXHIBIT "A"

PRODUCTION OF DOCUMENTS

1. Please provide any and all documents in the possession and control of Walter Wagner related to each debt Walter Wagner owes to World Botanical Gardens, Inc. identified by Walter Wagner in his Bankruptcy Schedule "F", Creditors Holding Unsecured Nonpriority Claims.
2. Please provide a copy of all documents in your possession or control related to all shares of World Botanical Gardens, Inc. stock Walter Wagner or his co-defendants sold without the express written permission of the World Botanical Gardens, Inc. Board of Directors from January 1, 2004 to the present. Include copies of all share purchase agreements, marketing materials, certificates of ownership, all checks or monies received from persons or on behalf of such persons purchasing such interest, complete bank records of any deposit in which such checks or monies were placed and the account holder, and the records, including copies of cancelled checks, reflecting the disposition of each such check or monies.
3. Please provide copies of all written Court Orders including Findings of Fact and Conclusions of Law, whether final or on appeal, related to all litigation involving World Botanical Gardens, Inc. and Walter L. Wagner, including but not limited to the pre-petition litigation matters consisting of the following:
 - (1) World Botanical Gardens, Inc. v. Walter Wagner, et al. Second Judicial District for the State of Nevada, Washoe County; Case No. CV05-02079, dated October 2, 2006.
 - (2) Walter L. Wagner v. World Botanical Gardens, Inc. Third Circuit Court for the State of Hawaii; Civil No. 04-01-0232, dated November 13, 2007.
 - (3) World Botanical Gardens, Inc. v. Walter Wagner, et al. Third Circuit for the State of Hawaii; Case No. 05-01-0210, dated October 9, 2008.
4. Please provide a true and correct copy of any accounting of funds and assets and related constructive trust as required by the State of Nevada under Case No. CV05-02079.